UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT CHATTANOOGA

KATHERINE ELLER,)	
Plaintiff,)	
v.) 1:21-CV-00164-DC	LC
KILOLO KIJAKAZI,)	
Acting Commissioner of the)	
Social Security Administration,)	
)	
Defendant. ¹)	

ORDER OF REMAND UNDER SENTENCE FOUR OF 42 U.S.C. § 405(g)

Before the Court are the Parties' Joint Motion to Remand [Doc. 19] and Plaintiff's Motion for Judgment on the Administrative Record [Doc. 13]. Magistrate Judge Christopher Steger has issued a report and recommendation [Doc. 20] recommending the parties' joint motion to remand [Doc. 19] be GRANTED and the motion for judgment on the administrative record [Doc. 13] be DENIED as MOOT. After thorough consideration of the report and recommendation and the record as a whole, the Court ADOPTS the report and recommendation.

Accordingly, the Court hereby enters a judgment under sentence four of 42 U.S.C. § 405(g), reversing the Commissioner's decision with a remand of the cause to the Commissioner according to the following terms. *See Shalala v. Schaefer*, 509 U.S. 292, 296, 113 S. Ct. 2625, 2629 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89, 97-98, 111 S. Ct. 2157, 2163 (1991). Upon

Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

receipt of the Court's remand order, the Appeals Council of the Social Security Administration SHALL REMAND the case and SHALL ISSUE instructions to offer Plaintiff a new hearing, update the record, and issue a new decision that considers all the evidence, including Plaintiff's use of supplemental oxygen, in properly evaluating Plaintiff's residual functional capacity.

For the reasons stated herein, the Parties' Joint Motion [Doc. 19] is hereby **GRANTED**, and Plaintiff's Motion for Judgment on the Administrative Record [Doc. 13] is hereby **DENIED AS MOOT.** The Clerk of the Court will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED:

s/Clifton L. Corker

UNITED STATES DISTRICT JUDGE